

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Assistant Commissioner for Patents
Washington, D.C. 20231

On OCTOBER 25, 2002
TOWNSEND and TOWNSEND and CREW LLP
By: [Signature]

Amanda J. Gorthy

#4

PATENT

Attorney Docket No.: 2307O-117500US

Client Reference No.: 2001-355

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

WEN-LIN KUO ET AL.

Application No.: 09/819,148

Filed: March 27, 2001

For: METHODS FOR DIAGNOSING
AND MONITORING MALIGNANCIES
BY SCREENING GENE COPY
NUMBERS

Examiner: To Be Assigned

Art Unit: 1651

PETITION UNDER 37 CFR §1.47(a) FOR
INVENTOR WHO REFUSES TO SIGN

Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED
NOV 04 2002
OFFICE OF PETITIONS

Sir:

Joint inventors hereby petition the Commissioner and fulfill any requirements under 37 CFR §1.47(a) on behalf of the non-signing inventor, Daniel Polikoff. Attached to support this petition are:

- 1) Petition for Revival of an Application for Patent Unintentionally Abandoned Under 37 CFR §1.137(b);
- 2) Executed declaration 37 CFR under 37 CFR §1.63 indicating last known address of the non-signing inventor; and
- 3) Response to Notice to File Missing Parts under 37 CFR §1.53(b)

For the reasons in the attached executed declarations by Helen I. Mumler, Dana Kane, and Kevin L. Bastian, it is believed that sufficient basis has been established for reviving

01/03/2003 KACLEY 00000007 201430 09819148

01 FC:2051 65.00 CH
02 FC:1450 130.00 CH
03 FC:2453 640.00 CH

this application in the absence of Daniel Polikoff's signature. The Petition Under 37 CFR §1.47(a) is therefore respectfully requested to be granted.

Please deduct the appropriate fee of \$130.00 as required by 37 CFR §1.17(h) from the undersigned's Deposit Account No. 20-1430.

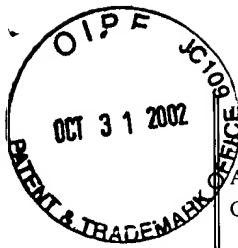
Respectfully submitted,



Kevin L. Bastian
Reg. No. 34,774

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
KLB/ajg

Date: October 25, 2002



I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231

PATENT
Attorney Docket No.: 023070-117500US
Client Ref. No.: 2001-355

On OCTOBER 25, 2002

TOWNSEND and TOWNSEND and CREW LLP

By: 

Amanda J. Gorthy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Wen-Lin KUO et al.

Application No.: 09/819,148

Filed: March 27, 2001

For: METHODS FOR DIAGNOSING
AND MONITORING MALIGNANCIES
BY SCREENING GENE COPY
NUMBERS

Examiner: To Be Assigned

Art Unit: 1651

DECLARATION UNDER 37 C.F.R. §
1.47(a) OF DANA KANE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Dana Kane, being duly warned that willful false statements and the like are punishable by fine or imprisonment or both (18 U.S.C. § 1001), and may jeopardize the validity of the patent application or any patent issuing, thereon, state and declare as follows:

1. All statements herein made of my own knowledge are true.
2. I, Dana Kane, am currently a Patent Prosecution Secretary at Townsend & Townsend & Crew LLP.

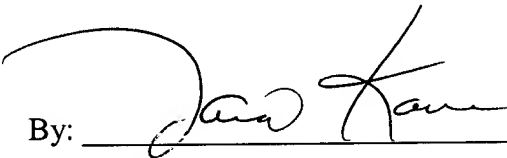
3. At the time the below mentioned letter was sent to Daniel Polikoff (Exhibit A), I was a Patent Prosecution Secretary at Townsend & Townsend & Crew LLP, responsible for preparing and sending correspondence for Kevin L. Bastian.

4. The last known address of Mr. Polikoff is 564 Central Ave. #210, Alameda, CA 94501, provided by Dr. Joe W. Gray.

5. This declaration is provided to demonstrate that joint inventor, Daniel Polikoff, has refused to join in an application for patent.

6. On December 18, 2001, a letter was sent via Express Mail to Daniel Polikoff, requesting signature of both the Declaration and Assignment with respect to the instant application. Daniel Polikoff did not respond. Please see Exhibit A which includes a copy of the letter sent to Mr. Polikoff and of the Express Mail receipt.

7. As of the date of this declaration, no attempt has been made by Daniel Polikoff to return the executed documents to myself or any of the other representatives of Townsend & Townsend & Crew LLP.

Date: October 25, 2002 By: 
Dana Kane

1 From *Please print and print hard.*
 Date 12/18/01 Sender's FedEx Account Number 0941-6664-0
 Sender's Name Kerri Bastan Phone (415) 576-0200
 Company TOWNSEND & TOWNSEND & CREW
 Address 2 EMBARCADERO CTR LBBY 8
 City SAN FRANCISCO State CA ZIP 94111
 2 Your Internal Billing Reference 023070-11750045
 3 To Recipient's Name Camel Politt Phone (510) 220-1111
 Company Residence
 Address 564 Central Ave #210
 City Alameda State CA ZIP 94501



See back for application instructions.
 Questions? Call 1-800-Go-FedEx® (800-463-3339)
 Visit our Web site at www.fedex.com

By using this Airbill you agree to the service conditions on the back of this Airbill and in our current Service Guide, including terms that limit our liability.

0157586891

4a Express Package Service
☒ FedEx Priority Overnight Next business morning
☐ FedEx Standard Overnight Next business afternoon
☐ FedEx 2Day* Second business day
☐ FedEx Express Saver* Third business day
 Packages up to 150 lbs. Delivery commitment may be later in some areas. FedEx First Overnight Earliest next business morning delivery to select locations. * FedEx Envelope/Letter Rate not available Minimum charge: One-pound rate.

4b Express Freight Service
☐ FedEx 1Day Freight* Next business day
☐ FedEx 2Day Freight Second business day
☐ FedEx 3Day Freight Third business day
 Packages over 150 lbs. Delivery commitment may be later in some areas.

5 Packaging
☐ FedEx Envelope/Letter*
☒ FedEx Pak*
☐ Other Pkg. Includes FedEx Box, FedEx Tube, and customer pkg.
 Declared value limit \$500

6 Special Handling
☐ SATURDAY Delivery Available for FedEx Priority Overnight and FedEx 2Day to select ZIP codes
☐ SUNDAY Delivery Available for FedEx Priority Overnight to select ZIP codes
☐ HOLD Weekday at FedEx Location Not available with FedEx First Overnight
☐ HOLD Saturday at FedEx Location Available for FedEx Priority Overnight and FedEx 2Day to select locations
 Does this shipment contain dangerous goods? One box must be checked.
☒ No ☐ Yes As per specified Shipper's Declaration ☐ Yes Shipper's Declaration not required
☐ Dry Ice Dry Ice, S. UN 1845 x kg
☐ Cargo Aircraft Only
 Dangerous Goods cannot be shipped in FedEx packaging.

7 Payment Bill to:
☒ Sender Acct. No. in Section 1 will be billed.
☐ Recipient Enter FedEx Acct. No. or Credit Card No. below.
☐ Third Party
☐ Credit Card
☐ Cash/Check

FedEx Acct. No. Credit Card No. Exp. Date
 Total Packages Total Weight Total Declared Value*
 \$.00
 *Our liability is limited to \$100 unless you declare a higher value. See back for details. FedEx Use Only

8 Release Signature *Signature*
 By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

402

December 18, 2001

VIA FEDERAL EXPRESS

Dr. Joe W. Gray
Professor of Laboratory Medicine and
Radiation Oncology
UCSF Comprehensive Cancer Center
2340 Sutter St., Rm. N415
San Francisco, CA 94143-0808

Re: US Patent Application No. 09/819,148
For: METHODS FOR DIAGNOSING AND MONITORING MALIGNANCIES
BY SCREENING GENE COPY NUMBERS
Our Ref. No.: 02307O-117500
UC Case No.: 2001-355

Dear Joe:

In accordance with instructions from Candy Voelker, enclosed for your signature are a Declaration and Assignment for the above-referenced application. By copy of this letter, counterpart documents are being sent to the rest of the inventors for signature.


Enclosed for review with each copy of this letter is a copy of the application as filed on March 27, 2001. As you are aware, US patent laws require that the inventors review the application before signing the Declaration.

When you have completed your review, please execute the Declaration and the Assignment. As you and the other inventors may know, the Declaration and Assignment may bear the same date of execution, but in no instance may the Assignment predate the Declaration.

Please return the executed documents to us in the enclosed self-addressed Federal Express envelope as soon as possible. The final deadline for filing these papers in the USPTO is December 29, 2001. Failure to meet this deadline will result in abandonment of the application.

We greatly appreciate your assistance, and that of the other inventors, in this matter.

Very truly yours,


Kevin L. Bastian

KLB:dk

Encs.

cc: Candace L. Voelker (w/o encs.)
Daniel Polikoff (w/encs.)
Wen-Lin Kuo (w/encs.)
Daniel Pinkel (w/encs.)
Donna Albertson (w/encs.)
Andy Berchuk (w/encs.)

**DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION
USING AN APPLICATION DATA SHEET (37 CFR 1.76)**

As the below named inventor(s), I/we declare that:

This declaration is directed to:

- ☐ The attached application, or
- ☒ Application No. 09/819,148, filed on 03/27/2001,
- ☐ as amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including material information which became available between the filing date of the prior application and the National or PCT International filing date of the continuation-in-part application, if applicable; and

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor one Daniel Polikoff Date: _____
Signature: _____ Citizen of: U.S.A.

Inventor two Wen-Lin Kuo Date: _____
Signature: _____ Citizen of: U.S.A.

Inventor three Daniel Pinkel Date: _____
Signature: _____ Citizen of: U.S.A.

Inventor four Donna Albertson Date: _____
Signature: _____ Citizen of: U.S.A.

Inventor five Andy Berchuk Date: _____
Signature: _____ Citizen of: U.S.A.

Inventor six Joe Gray Date: _____
Signature: _____ Citizen of: U.S.A.

Application Information

Application number::	09/819,148
Filing Date::	March 27, 2001
Application Type::	Regular
Subject Matter::	Utility
Suggested classification::	
Suggested Group Art Unit::	
CD-ROM or CD-R??::	
Number of CD disks::	
Number of copies of CDs::	
Sequence Submission::	
Computer Readable Form (CRF)?::	
Number of copies of CRF::	
Title::	METHODS FOR DIAGNOSING AND MONITORING MALIGNANCIES BY SCREENING GENE COPY NUMBERS
Attorney Docket Number::	023070-117500US
Request for Early Publication::	No
Request for Non-Publication::	No
Suggested Drawing Figure::	
Total Drawing Sheets::	2
Small Entity?::	Yes
Latin name::	
Variety denomination name::	
Petition included?::	No
Petition Type::	
Licensed US Govt. Agency::	
Contract or Grant Numbers One::	
Secrecy Order in Patent Appl.?::	No

Inventor Information

Inventor Authority Type::	Inventor
Primary Citizenship Country::	US
Status::	Full Capacity
Given Name::	Daniel
Middle Name::	
Family Name::	Polikoff
Name Suffix::	
City of Residence::	Alameda
State or Prov. Of Residence::	CA
Street::	564 Central Avenue, #210
City::	Alameda
State or Province::	CA
Postal or Zip Code::	94501

Inventor Authority Type::
Primary Citizenship Country::
Status::
Given Name::
Middle Name::
Family Name::
Name Suffix::
City of Residence::
State or Prov. Of Residence::
Street::
City::
State or Province::
Postal or Zip Code::

Inventor
US
Full Capacity
Wen-Lin

Kuo

Pleasanton
CA
1536 Maple Leaf Drive
Pleasanton
CA
94888

Inventor Authority Type::
Primary Citizenship Country::
Status::
Given Name::
Middle Name::
Family Name::
Name Suffix::
City of Residence::
State or Prov. Of Residence::
Street::
City::
State or Province::
Postal or Zip Code::

Inventor
US
Full Capacity
Daniel

Pinkel

Walnut Creek
CA
31 Manzanita Court
Walnut Creek
CA
94595

Inventor Authority Type::
Primary Citizenship Country::
Status::
Given Name::
Middle Name::
Family Name::
Name Suffix::
City of Residence::
State or Prov. Of Residence::
Street::
City::
State or Province::
Postal or Zip Code::

Inventor
US
Full Capacity
Donna

Albertson

Lafayette
CA
1098 Via Roble
Lafayette
CA
94549

Inventor Authority Type:: Inventor
Primary Citizenship Country:: US
Status:: Full Capacity
Given Name:: Andy
Middle Name::
Family Name:: Berchuk
Name Suffix::
City of Residence:: Chapel Hill
State or Prov. Of Residence:: NC
Street:: 226 Chesley Lane
City:: Chapel Hill
State or Province:: NC
Postal or Zip Code:: 27514

Inventor Authority Type:: Inventor
Primary Citizenship Country:: US
Status:: Full Capacity
Given Name:: Joe
Middle Name:: W.
Family Name:: Gray
Name Suffix::
City of Residence:: San Francisco
State or Prov. Of Residence:: CA
Street:: 50 Santa Paula Ave.
City:: San Francisco
State or Province:: CA
Postal or Zip Code:: 94127

Correspondence Information

Correspondence Customer Number:: 20350

Representative Information

Domestic Priority Information

Application:: Continuity Type:: Parent Application:: Parent Filing Date::

Foreign Priority Information

Country::

Application number::

Filing Date::

ASSIGNMENTU.C. Case No. 2001-355

For good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR(S),

- | | |
|--------------------|--------------------|
| 1. Daniel Polikoff | 2. Wen-Lin Kuo |
| 3. Daniel Pinkel | 4. Donna Albertson |
| 5. Andy Berchuk | 6. Joe Gray |

hereby sells, assigns and transfers to ASSIGNEE, The Regents of the University of California, a California Corporation, having its statewide administrative offices located 1111 Franklin St., 12th Floor, Oakland, CA 94607-5200, and the successors, assigns and legal representatives of the ASSIGNEE all of its right, title and interest for the United States and its territorial possessions and in all foreign countries in and to, any and all improvements which are disclosed in the invention entitled:

METHODS FOR DIAGNOSING AND MONITORING MALIGNANCIES BY SCREENING GENE COPY NUMBERS

and which is found in

- (a) _____ U.S. provisional application filed herewith and listing the above-named persons as inventors
- (b) _____ U.S. patent application filed herewith and listing the above-named persons as inventors
- (c) X _____ U.S. application serial no. 09/819,148, filed on 03/27/2001
- (d) _____ U.S. Patent No.: _____, issued _____

and any legal equivalent thereof in a foreign country, including the right to claim priority and, in and to, all Letters Patent to be obtained for said invention by the above application or any continuation, division, continuation-in-part, extension, conversion to 35 USC 111(a) or substitute thereof, and any reissue, reexamination or extension of said Letters Patent and all rights under all International Conventions for the Protection of Industrial Property;

ASSIGNOR(S) hereby covenants that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment;

ASSIGNOR(S) further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation, or proceeding relating thereto and will promptly execute and deliver to ASSIGNEE or its legal representative any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue or enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof. An attorney of record is authorized and requested by the execution of this assignment to insert into this assignment the filing date and serial number of said application when officially known.

AND the ASSIGNOR(S) requests the Commissioner of Patents and Trademarks to issue said Letters Patent of the United States and any reissue or extension thereof to the ASSIGNEE, The Regents of the University of California.

executed this

_____ day of _____, 2001

_____ day of _____, 2001

_____ day of _____, 2001

Signature of Inventor(s)

DANIEL POLIKOFF_____
WEN-LIN KUO_____
DANIEL PINKEL

TTC Attorney Docket No. 0203070-117500US

U.C. Case No. 2001-355

Page 2 of Assignment for

Methods for Diagnosing and Monitoring Malignancies by Screening Gene Copy Numbers

____ day of _____, 2001

DONNA ALBERTSON

____ day of _____, 2001

ANDY BERCHUK

____ day of _____, 2001

JOE GRAY

SF 1252035 v1

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231
On OCTOBER 25, 2002

PATENT
Attorney Docket No.: 023070-117500US
Client Ref. No.: 2001-355

TOWNSEND and TOWNSEND and CREW LLP

By: 

Amanda J. Gorthy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Wen-Lin KUO et al.

Application No.: 09/819,148

Filed: March 27, 2001

For: METHODS FOR DIAGNOSING
AND MONITORING MALIGNANCIES
BY SCREENING GENE COPY
NUMBERS

Examiner: To Be Assigned

Art Unit: 1651

DECLARATION UNDER 37 C.F.R. §
1.47(a) OF HELEN I. MUMLER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Helen I. Mumler, being duly warned that willful false statements and the like are punishable by fine or imprisonment or both (18 U.S.C. § 1001), and may jeopardize the validity of the patent application or any patent issuing, thereon, state and declare as follows:

1. All statements herein made of my own knowledge are true.
2. I, Helen I. Mumler, am currently a Patent Practice Specialist at Townsend & Townsend & Crew LLP.

3. At the time the below mentioned letters were sent to Daniel Polikoff (Exhibits A-C), I was a Patent Prosecution Secretary at Townsend & Townsend & Crew LLP, and was responsible for preparing and sending correspondence for J. David Smith.

4. This declaration is provided to demonstrate that joint inventor, Daniel Polikoff, has refused to join in an application for patent.

5. The last known address of Mr. Polikoff was, at the time of our inquiries, 3516 Barrett Ave., Richmond, CA. 94805.

6. The last known address of Mr. Polikoff as of the date of this Declaration, is 564 Central Ave #210, Alameda, CA 94501.

7. On July 27, 2001, a letter to Daniel Polikoff was sent via Certified Mail requesting signature of both the Declaration and Assignment with respect to the instant application. Daniel Polikoff did not respond. Please see Exhibit A which includes the letter sent to Mr. Polikoff.

8. A follow-up reminder was sent via Certified Mail on August 21, 2001 resulting in no response received from Mr. Polikoff. Please see Exhibit B which includes the follow-up letter sent to Mr. Polikoff.

9. On September 20, 2001, another letter was sent via Certified Mail to Dr. Joe W. Gray at UCSF Comprehensive Cancer Center, confirming Daniel Polikoff's mailing address and asking for his assistance in reaching Mr. Polikoff. We received no response from Mr. Polikoff. Please see Exhibit C which includes the letter to Dr. Joe W. Gray regarding Mr. Polikoff's lack of responses to our inquiries.

10. As of the date of this declaration, no attempt has been made by Daniel Polikoff to return the executed documents to myself or any of the other representatives of Townsend & Townsend & Crew LLP.

Date:

October 25, 2002

By:

Helen I. Mumler

Helen I. Mumler

TOWNSEND
and
TOWNSEND
and
CREW
LLP

Palo Alto, Ca. nia
Tel 650 326-2400

Denver, Colorado
Tel 303 571-4000

Walnut Creek, California
Tel 925 472-5000

Seattle, Washington
Tel 206 467-9600

San Francisco

Two Embarcadero Center
8th Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300

Direct: 415-273-7551

July 27, 2001

Daniel Polikoff
3516 Barrett Ave.
Richmond, CA. 94805


Re: US Patent Application No. 09/819,148
For: METHODS FOR DIAGNOSING AND MONITORING MALIGNANCIES
BY SCREENING GENE COPY NUMBERS
Filed: March 27, 2001
Client Reference No.: 2001-355
Our File No.: 023070-117500US

Dear Mr. Polikoff:

Enclosed please find two copies of a Declaration and an Assignment for you to sign with respect to the above-referenced patent application. In particular, please be sure to confirm the accuracy of the information that relates to you.

You may keep one set for your records. Please return a signed copy of each of the Declaration and Assignment as soon as possible in the enclosed self-addressed, stamped envelope.

Very truly yours,


J. David Smith

JDS/him
Enclosures

SF 1249689 v1

TOWNSEND
and
TOWNSEND
and
CREW

LLP

Palo Alto, California
Tel 650 326-2400

Denver, Colorado
Tel 303 571-4000

Walnut Creek, California
Tel 925 472-5000

Seattle, Washington
Tel 206 467-9600

San Francisco

Two Embarcadero Center
8th Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300

Direct: 415-273-7551

August 21, 2001

Daniel Polikoff
3516 Barrett Ave.
Richmond, CA. 94805

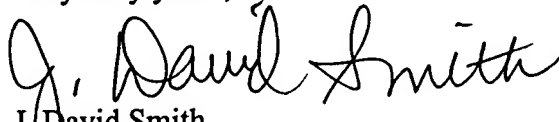
Re: US Patent Application No. 09/819,148
For: METHODS FOR DIAGNOSING AND MONITORING MALIGNANCIES
BY SCREENING GENE COPY NUMBERS
Filed: March 27, 2001
Client Reference No.: 2001-355
Our File No.: 023070-117500US

Dear Mr. Polikoff:

On July 27, 2001, we sent you an Assignment and a Declaration to be signed for the above-referenced patent application. However we have not received your signed documents as of this date.

This is a reminder to please return a signed copy of each of the Declaration and Assignment as soon as possible in the self-addressed, stamped envelope which we provided. Thank you for your assistance in this important matter.

Very truly yours,


J. David Smith

JDS/himsf 1260464 v1

TOWNSEND
and
TOWNSEND
and
CREW
LLP

Palo Alto, California
Tel 650 326-2400

Denver, Colorado
Tel 303 571-4000

Walnut Creek, California
Tel 925 472-5000

Seattle, Washington
Tel 206 467-9600

San Francisco

Two Embarcadero Center
8th Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300
jds@townsend.com
direct dial: (415) 273-7551

September 20, 2001

Dr. Joe W. Gray
Professor of Laboratory Medicine and
Radiation Oncology
UCSF Comprehensive Cancer Center
2340 Sutter St., Rm. N415
San Francisco, CA 94143-0808

Re: US Patent Application No. 09/819,148
For: METHODS FOR DIAGNOSING AND MONITORING MALIGNANCIES
BY SCREENING GENE COPY NUMBERS
Our Ref. No.: 023070-117500
UC Case No.: 2001-355

Dear Dr. Gray:

Thank you for sending back your signed Assignment and Declaration in the above-referenced matter. We have received signed documents from everyone, except Daniel Polikoff with a home mailing address of 3516 Barrett Ave., Richmond, CA. 94805. The initial request was sent on July 27, with a follow up reminder on August 21, 2001.

Do you know how to reach Mr. Polikoff in order to encourage him to sign and send in the completed documents? I thank you for any assistance which you can provide.

Very truly yours,



J. David Smith

JDS/him



I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231

PATENT
Attorney Docket No.: 023070-117500US
Client Ref. No.: 2001-355

On OCTOBER 25, 2002

TOWNSEND and TOWNSEND and CREW LLP

By: *Amanda J. Gorthy*
Amanda J. Gorthy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Wen-Lin KUO et al.

Application No.: 09/819,148

Filed: March 27, 2001

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Examiner: To Be Assigned

Art Unit: 1651

DECLARATION UNDER 37 C.F.R. §
1.47(a) OF KEVIN L. BASTIAN

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Kevin L. Bastian, being duly warned that willful false statements and the like are punishable by fine or imprisonment or both (18 U.S.C. § 1001), and may jeopardize the validity of the patent application or any patent issuing, thereon, state and declare as follows:

1. All statements herein made of my own knowledge are true.
2. I, Kevin L. Bastian, am currently a Partner at Townsend & Townsend & Crew LLP.

3. At the time the below mentioned letter was sent to Daniel Polikoff (Exhibit A), Dana Kane was a Patent Prosecution Secretary at Townsend & Townsend & Crew LLP, responsible for preparing and sending correspondence on behalf of myself.

4. The last known address of Mr. Polikoff is 564 Central Ave. #210, Alameda, CA 94501, provided by Dr. Joe W. Gray.

5. This declaration is provided to demonstrate that joint inventor, Daniel Polikoff, has refused to join in an application for patent.


6. On December 18, 2001, a letter was sent via Express Mail to Daniel Polikoff requesting signature of both the Declaration and Assignment with respect to the instant application. Daniel Polikoff did not respond. Please see Exhibit A which includes a copy of the letter sent to Mr. Polikoff and of the Express Mail receipt.

7. As of the date of this declaration, no attempt has been made by Daniel Polikoff to return the executed documents. On December 26, 2001, Mr. Polikoff left a voice mail message with me stating that he would not sign the Declaration or Assignment documents.

Date:

Oct 25 2002

By:



Kevin L. Bastian (Reg. No. 34,774)

From Please print and print hard.

Date 12/18/01 Sender's FedEx Account Number 0941-6664-0
 Sender's Name Kerri Bastan Phone (415) 576-0200

Company TOWNSEND & TOWNSEND & CREW

Address 2 EMBARCADERO CTR LBBY 8

City SAN FRANCISCO State CA ZIP 94111

2 Your Internal Billing Reference 023070-11750045

To Daniel Polixoff Recipient's Name Residence Phone (510) 220 1111

Company Residence

Address 564 Central Ave #210
 To "HOLD" at FedEx location, print FedEx address. We cannot deliver to P.O. boxes or P.O. ZIP codes.

City Alameda State CA ZIP 94501

See back for application instructions.

Questions? Call 1-800-Go-FedEx® (800-463-3339)
 Visit our Web site at www.fedex.com

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4a Express Package Service

☒ FedEx Priority Overnight Next business morning ☐ FedEx Standard Overnight Next business afternoon ☐ FedEx First Overnight Earliest next business morning delivery to select locations
 Packages up to 150 lbs. Delivery commitment may be later in some areas.

☐ FedEx 2Day® Second business day ☐ FedEx Express Saver® Third business day
 * FedEx Envelope/Letter Rate not available Minimum charge: One-pound rate

4b Express Freight Service

☐ FedEx 1Day Freight® Next business day ☐ FedEx 2Day Freight Second business day ☐ FedEx 3Day Freight Third business day
 Packages over 150 lbs. Delivery commitment may be later in some areas.

* Call for Confirmation: Declared value limit \$500

5 Packaging

☐ FedEx Envelope/Letter* ☒ FedEx Pak* ☐ Other Pkg. Includes FedEx Box, FedEx Tube, and customer pkg.

6 Special Handling

☐ SATURDAY Delivery Available for FedEx Priority Overnight and FedEx 2Day to select ZIP codes ☐ SUNDAY Delivery Available for FedEx Priority Overnight to select ZIP codes ☐ HOLD Weekday at FedEx Location Not available with FedEx First Overnight ☐ HOLD Saturday at FedEx Location Available for FedEx Priority Overnight and FedEx 2Day to select locations

Does this shipment contain dangerous goods? One box must be checked.
☒ No ☐ Yes As per attached Shipper's Declaration ☐ Yes Shipper's Declaration not required ☐ Dry Ice Dry Ice, S, UN 1845 x kg
 Dangerous Goods cannot be shipped in FedEx packaging. ☐ Cargo Aircraft Only

7 Payment Bill to:

Enter FedEx Account No. or Credit Card No. below:
☒ Sender Account No. in Section 1 will be billed. ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check

FedEx Acct. No. or Credit Card No.	Exp. Date	Total Packages	Total Weight	Total Declared Value†
				\$.00

†Our liability is limited to \$100 unless you declare a higher value. See back for details. FedEx Use Only

8 Release Signature

Signature [Signature]
 By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

402

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San Francisco

Two Embarcadero Center
8th Floor
San Francisco,
California 94111-3824
Tel 415 576-0200
Fax 415 576-0300
Attention: Mr. J. W. Gray

December 18, 2001

VIA FEDERAL EXPRESS

Dr. Joe W. Gray
Professor of Laboratory Medicine and
Radiation Oncology
UCSF Comprehensive Cancer Center
2340 Sutter St., Rm. N415
San Francisco, CA 94143-0808

Re: US Patent Application No. 09/819,148
For: METHODS FOR DIAGNOSING AND MONITORING MALIGNANCIES
BY SCREENING GENE COPY NUMBERS
Our Ref. No.: 02307O-117500
UC Case No.: 2001-355

Dear Joe:

In accordance with instructions from Candy Voelker, enclosed for your signature are a Declaration and Assignment for the above-referenced application. By copy of this letter, counterpart documents are being sent to the rest of the inventors for signature.

Enclosed for review with each copy of this letter is a copy of the application as filed on March 27, 2001. As you are aware, US patent laws require that the inventors review the application before signing the Declaration.

When you have completed your review, please execute the Declaration and the Assignment. As you and the other inventors may know, the Declaration and Assignment may bear the same date of execution, but in no instance may the Assignment predate the Declaration.

Please return the executed documents to us in the enclosed self-addressed Federal Express envelope as soon as possible. The final deadline for filing these papers in the USPTO is December 29, 2001. Failure to meet this deadline will result in abandonment of the application.


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We greatly appreciate your assistance, and that of the other inventors, in this matter.

Very truly yours,


Kevin L. Bastian

KLB:dk

Encs.

cc: Candace L. Voelker (w/o encs.)
Daniel Polikoff (w/encs.)
Wen-Lin Kuo (w/encs.)
Daniel Pinkel (w/encs.)
Donna Albertson (w/encs.)
Andy Berchuk (w/encs.)